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09/937,591	09/27/2001	Bard Lotveit	CU-2651 RJS	2682

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EXAMINER

MAKI, STEVEN D

ART UNIT

PAPER NUMBER

1733

DATE MAILED: 09/22/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/937,591

Applicant(s)

LOTVEIT, BARD

Examiner

Steven D. Maki

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

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- 1) The following is a quotation of the second paragraph of 35 U.S.C. 112: <

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

- 2) Claims 1-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, it is unclear if the claimed belt is an endless annular belt; it being noted that there is no antecedent basis for "the internal circumference" at claim 1 line 6. In claim 1 line 3, it is suggested to change "a belt" to --an endless annular belt--.

In claim 1, it is unclear if the inner side portion, the outer side portion and the elastic member are claimed components or relate to intended use. In claim 1, the following changes are suggest: (1) on line 3 before "intended" change "and" to --, flexible inner and outer side portions, and an elastic member, the belt--, (2) on line 4 before "flexible" insert --the-- and (3) on line 5, before "elastic" change "and" to --the--.

Claim 1 last two lines describes "the internal circumference of the belt is at least 4% larger than the largest circumference of the wheel". One of ordinary skill in the art is not reasonably appraised of the scope of protection afforded by this language. Claim 1 is not limited to the combination of the device and the vehicle wheel. The claimed device can be applied to a tire wherein the "claimed internal circumference" is equal to (instead of at least 4% larger than) of the largest circumference of the wheel. The meets and bounds of claim 1 are ambiguous since the claimed lower limit of the internal circumference *changes* with different wheels having different circumferences. In other

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words, the scope of "the largest circumference of the wheel" is ambiguous since it is defined with respect to the unclaimed wheel (the intended use).

Claim 2 is indefinite for the same reasons given for claim 1.

Claim 6 is indefinite for the reasons given for claim 1. In claim 6, the claimed circumference of the opening is defined with respect to the unclaimed wheel (the intended use of the device).

As to claim 9, it is unclear how "consists mostly of a textile material" further limits "made substantially from textile material". It is suggested to (1) cancel claim 9 and (2) change the dependency of claims 10 and 11 from "claim 9" to --claim 1--.

In claim 11, the description relating to the coating is ambiguous. In claim 11 line 2, it is suggested to change "which is" to --each layer being--.

In claim 12, the description / scope of "the layer construction pattern preferably being 4-shed broken twill" is unclear.

Claim 15 is inconsistent with claim 10. Claim 10 requires polyamide whereas claim 15 describes polyester or polyamide.

In claim 19, the description relating to "similar polymer" is unclear - similar to which polymer?

Claim 20 lines 4-7 is indefinite for the same reasons given for claim 1. As to lines 4-7, it is suggested to amend claim 20 in a manner corresponding to that suggested above for claim 1.

3) The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4) Claims 1-3, 6, 7 and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Krueger (US 2682907).

This 35 USC 102 rejection may be overcome by amending claims 1-19 to recite --A vehicle wheel having a device for increasing friction between the wheel and the road fitted thereon, the device comprising--.

As to claims 1 and 9, the claimed device is anticipated by the traction increasing means of Krueger. The claimed belt, inner side portion and outer side portion reads on the endless annular elongated member 12 of flexible material such as canvas or the like. The description of "textile material" reads on canvas. The claimed elastic member reads on annular coil springs.

As to claims 1, 2 and 6, the description of "the internal circumference of the belt is at least 4% larger than the largest circumference of the wheel" fails to require an internal circumference different from that disclosed by Krueger. Claim 1 fails to exclude fitting the device on a wheel wherein the internal circumference of the device is the same as the wheel. The same is true for claims 2 and 6.

As to claims 3 and 7, note the side portions of the elongated member 12 of the traction increasing means.

5) Claims 1-4 and 6-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Krueger (US 2682907) in view of Wollheim (US 1910416) /or Japan '503 (JP 1-249503).

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Krueger is considered to anticipate claim 1. In any event: As to "elastic member", it would have been obvious to use an "elastic member" instead of a contractable annular coil spring 20 since Wollheim, directed to a tire cover which is structurally similar to the tire traction increasing means of Krueger, teaches that an elastic band is an alternative to a coiled metal spring for exerting tension for holding a cover on a tire. As to the "internal circumference", it would have been obvious to use the endless annular traction increasing means of Krueger on a tire such that the internal circumferential of the endless annular traction increasing means is at least 4% (claim 1) / 4-10% (claim 2) larger than the largest circumference of the tire in view of Japan '503's suggestion to apply an endless annular tire anti-slip band to a tire such that a gap is formed between the internal surface of the endless annular tire anti-slip band and the outer surface of the tire to prevent slipping of the tire and damaging of the road surface.

As to claim 3, see figures of Krueger.

As to claim 4, the limitation of the outer side portion covering substantially the outer side of the wheel would have been obvious in view of Wollheim's teaching that a tire cover, if desired may be a solid sheet (covering that entire side of the tire).

As to claim 6, the limitation of the outer side portion having at least one opening would have been obvious since the traction increasing means of Krueger has an opening on each side.

As to claim 7, Krueger suggests the claimed straps. See for example strips 32. Claim 7 fails to require the straps to have a length corresponding to the diameter of the device.

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As to claim 8, the limitation therein would have been obvious since (1) Wollheim, as noted above, suggests using an elastic band and (2) "a rubber elastic material which is covered by spinning about it, or is spun, woven or knitted together with, a substantially inelastic thread material, the thread material limiting the extensibility of the elastic member" is taken as a well known / conventional rubber band per se. The suggestion to use a rubber band in Krueger comes from Wollheim instead of the official notice.

As to claim 9, note Krueger's teaching to use canvas.

6) Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Krueger (US 2682907) in view of Wollheim (US 1910416) and /or Japan '503 (JP 1-249503) as applied above and further in view of German '291 (DE 2355291).

As to claim 5, it would have been obvious to use the claimed netting as the textile for the traction increasing means (an anti-slip device) since (a) German '291 suggests using a netting for an anti-slip device wherein the netting comprising polyester threads and (b) a netting comprising PVC coated 1100dtex polyester multifilament material" is taken as a well known / conventional netting per se. The net opening of 2-7 mm would have been obvious and could have been determined without undue experimentation in view of German '291's teaching to obtain the result of anti slip using a netting.

7) Claims 10-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Krueger (US 2682907) in view of Wollheim (US 1910416) and /or Japan '503 (JP 1-249503) as applied above and further in view of at least one of Riggs et al (US 5439727), Peterson (US 3335776) and German '291 (DE 2355291).

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As to claims 10-19, it would have been obvious to use a woven textile for Krueger's traction increasing means since (a) Krueger broadly suggests using a textile for the traction increasing means (canvas is merely exemplary) and (b) it is known in the tire art to use a woven textile for covering the tread of a tire as evidenced by at least one of Riggs et al, Peterson and German '291. Riggs et al discloses a woven polyamide having a water resistant coating for a tire cover so that it readily conforms to the surface of the tire. Peterson discloses using a woven fabric including cross wide fibers for a traction improving means. German '291 discloses weaving threads to form a netting for a anti-slip device. As to claims 10, 11 and 15, Riggs et al suggests a textile comprising woven polyamide and being coated with a water resistant coating - it being well known to form water resistant material from plastic / polymer. The use of two layers as an alternative to one layer is suggested by Krueger. As to claims 12 and 13, German '291 suggests using polyester threads. As to claim 14, the limitation therein would have been obvious since it is taken as well known / conventional per se to use a colored layer beneath a ground contacting layer to indicate wear; it being noted again that the use of two layers as an alternative to one layer is suggested by Krueger. As to claims 16 and 17, it would have been obvious to interconnect the textile layers using a yarn since it is taken as well known / conventional per se in the textile art to hold textile layers together using a yarn - the use of two textile layers for a traction increasing means is suggested by Krueger. As to claims 18 and 19, note Riggs et al suggestion to coat the woven polyamide with water resistant material - low friction being a relative term.

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8) **Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Krueger (US 2682907) in view of Wollheim (US 1910416) and /or Japan '503 (JP 1-249503) as applied above and further in view of Asano (WO 86/00579) and Bowler (US 3007506).**

As to claim 20, it would have been obvious to fit Krueger's traction increasing device on a wheel (tire) as claimed since: (1) Krueger teaches applying the endless annular traction increasing device on a tire so that it can increase traction of the tire and (2) it is well known in the tire art to facilitate fitting of a traction device on a tire by using rotation of the tire as evidenced by Asano and Bowler.

Remarks

9) The remaining references are of interest.

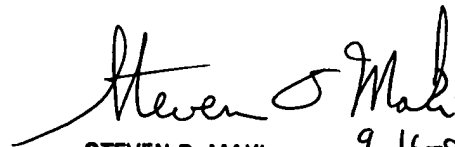
10) No claim is allowed.

11) Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven D. Maki whose telephone number is 703-308-2068. The examiner can normally be reached on Mon. - Fri. 7:30 AM - 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Ball can be reached on (703) 308-2058. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

Steven D. Maki
September 16, 2003


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9-16-03